

PLANNING COMMISSION MINUTES

October 18, 2000

CALL TO ORDER:

Chairman Dan Maks called the meeting to order at 7:04 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Dan Maks, Planning Commissioners Sharon Dunham, Chuck Heckman, Eric Johansen, Brian Lynott and Vlad Voytilla. Planning Commissioner Barnard was excused.

Principal Planner Hal Bergsma, Senior Planner Barbara Fryer, AICP, Associate Planner Colin Cooper, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Maks, who presented the format for the meeting.

VISITORS:

Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATIONS:

On question, staff indicated that there were no communications at this time.

OLD BUSINESS:

Chairman Maks opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

CONTINUANCE:

1 **A. CPA99-00025 - COMPREHENSIVE PLAN LAND USE ELEMENT**

2 *(Continued from September 20, 2000)*

3 As originally described, "The proposed amendment will replace the existing Land
4 Use Element. The proposal intends to complete Metro requirements related to land
5 use requirements in local jurisdiction comprehensive plans. Both map and text
6 changes will be included in the proposal." Metro Code Section 3.07.130 requires
7 local governments identify Design Type Boundaries. The proposed amendment
8 modifies the Land Use Element to more specifically identify the Metro Design
9 Types, to specify boundaries and to collate common policies among the design
10 types. Existing language will be modified to the extent that information can be
11 made more clear, concise or consistent with other sections of the same element. In
12 addition, the proposed amendment may:

- 13 • Remove references to the City's housing program and relocate them to
14 the Housing/Economy Element;
- 15 • Remove references to the City's Urban Services Area and relocate
16 them to the Public Services Element;
- 17 • Amend the Comprehensive Plan map to coincide with Land Use
18 Element text changes; and
- 19 • Place text provisions related to specific sub-areas of the City, such as
20 the Downtown and the Murray/Scholls Town Center, in separate
21 documents as addenda to the Comprehensive Plan.

22
23 Senior Planner Barbara Fryer submitted the Staff Report, dated October 18, 2000,
24 discussed previous Public Hearings regarding this application for a
25 Comprehensive Plan Land Use Element and described the amendments and
26 revisions contained in the additional documents that have been distributed to the
27 Planning Commissioners. She mentioned that the maps have been changed in
28 relation to the land use edits received in the packet for the meeting of September
29 20, 2000. She referred to a particular change relating to the Main Street issue
30 along Hall Boulevard and Allen Boulevard, which had been discussed at the last
31 meeting. Further research resulting from comments of the Planning
32 Commissioners had resulted in the elimination of the three parcels from the Main
33 Street designation and retained this designation on the City-owned properties and
34 the corner properties on Hall Boulevard and Allen Boulevard. The southerly
35 boundary more or less ends at the City property. She discussed the different
36 handouts distributed this evening, specifically the Proposed R-7 Zoning District
37 Amendments, noting that this involves the change implemented in the Main Street
38 designation and map. She explained that each of the pink sheets of paper
39 represents the individualized notice that was mailed on October 16, 2000, to the
40 owners of the properties noted on the white sheets. This additional Ballot Measure
41 56 Notice necessitates a continuance until November 15, 2000, to allow these
42 individual property owners the opportunity to review and respond to this
43 information. Concluding, she offered to respond to any questions or comments.

1 Commissioner Heckman suggested that the Public Hearing be continued.

2

3 Chairman Maks pointed out that the Community Plans have not yet been
4 reviewed, requesting comments and questions regarding these plans at this time.

5

6 Commissioner Dunham referred to the South Tek Station Community Plan,
7 specifically page 5, noting that specific policies have been itemized, while the
8 Community Plan for Beaverton Creek has policies itemized, including actions.
9 She questioned why the one Community Plan is outlined more specifically than
10 another.

11

12 Ms. Fryer advised Commissioner Dunham that these differ because the existing
13 language had been taken from the Comprehensive Plan and inserted into the
14 Community Plans, eliminating the generic language, that could apply to all mixed
15 use areas and including it into Section 3.5 -- Mixed Use Areas. Policies that were
16 specific to Station Communities that were very generic were modified and applied
17 to all Station Communities. She emphasized that the Development Code does
18 specify minimum floor area ratios (FARs) and minimum densities.

19

20 Expressing concern that an average citizen might not understand certain terms,
21 Commissioner Dunham requested a definition of the term "para-transit".

22

23 Ms. Fryer advised Commissioner Dunham that para-transit will be defined in the
24 next draft.

25

26 Chairman Maks referred to the Community Plan section, specifically promotion of
27 the use of the Planned Unit Development (PUD) process. He questioned whether
28 it is appropriate to promote this within the language of the Murray/Scholls Town
29 Center Community Plan.

30

31 Ms. Fryer advised Chairman Maks that this is promoted in the Mixed-Use areas.

32

33 Observing that he is aware that this is promoted within the Mixed-Use areas,
34 Chairman Maks suggested that it might also be appropriate to incorporate this
35 within the Community Plan.

36

37 Ms. Fryer emphasized that any development that may occur within a Community
38 Plan must comply with this particular section.

39

40 Observing that he understands, Chairman Maks mentioned that it is necessary for
41 a layman to be capable of understanding these documents.

1 Commissioner Voytilla expressed his frustration with knowing the desires to
2 create public facilities such as pedestrian paths, open space and parks and whether
3 it is advisable to be that specific in stating a certain desire for a certain area with
4 such a degree of specific detail.

5

6 Chairman Maks commented that he prefers not to be that specific within the
7 Comprehensive Plan.

8

9 Ms. Fryer observed that the extension of Murray Boulevard had driven the
10 limitation on 2500 dwelling units, adding that policies are included within the
11 more generic Land Use Element regarding pedestrian connectivity. She
12 mentioned that the major pedestrian route maps for each of the specific areas in
13 the Community Plans are available, although there is not necessarily any specific
14 provision for parks. She discussed the recreation section of the Natural Resources
15 and Open Space Element of the Comprehensive Plan that will be submitted as
16 another amendment. She hypothesized that may include some amenities for this
17 particular area.

18

19 Chairman Maks pointed out that sometimes uses included in Planned Unit
20 Developments (PUD) are something other than what was originally expected by
21 adjoining property owners.

22

23 Commissioner Dunham expressed her appreciation to Ms. Fryer for her efforts,
24 particularly on the introduction on Community Plans.

25

26 **PUBLIC TESTIMONY:**

27

28 On question, no one from the public appeared to testify at this time.

29

30 Commissioner Voytilla **MOVED** and Commissioner Heckman **SECONDED** a
31 motion that CPA 99-00025 – Comprehensive Plan Land Use Element be
32 continued to a date certain of November 15, 2000.

33

34 Motion **CARRIED**, unanimously.

35

36 Assuring Ms. Fryer that he enjoys reading this document, Chairman Maks
37 questioned the possibility of taking action on this Comprehensive Plan
38 Amendment at the continuance on November 15, 2000.

39

40 **NEW BUSINESS:**

41

42 **PUBLIC HEARINGS:**

1
2 **A. SHIPLEY 4-LOT SUBDIVISION**

3 The following land use applications have been submitted for a four-lot
4 subdivision at 5475 SW Main Avenue. The development proposal is located on
5 Assessor's Map 1S1-16DD, Tax Lot 1700. The site is zoned Urban Standard
6 Residential (R-5) and is approximately .69 acres.
7

8 **1. SB 2000-0013: SUBDIVISION PRELIMINARY PLAT**

9 The applicant requests approval of a subdivision in order to divide the
10 property into four lots to allow for the construction of three new homes
11 and to allow for the preservation of the existing home, and associated
12 street, landscape strip and water quality swale.
13

14 **2. FS 2000-0006: FLEXIBLE SETBACK**

15 The applicant also requests approval of a flexible setback for all lots in the
16 proposed subdivision (application SB 2000-0013), in order to reduce the
17 required 20-foot front yard setback to 10 feet and in order to reduce the
18 required 25-foot rear yard setback to 10 feet.
19

20 Commissioner Lynott reported that while walking the site, he had been
21 approached by a neighbor, adding that he had identified himself and invited this
22 individual to attend the Public Hearing.
23

24 On question, Associate Planner Colin Cooper advised Chairman Maks that
25 although a film of the site is available, the projection system is not operable.
26

27 On question, Commissioners Heckman, Voytilla, Dunham and Johansen all
28 indicated that they had visited the site and not had contact with anyone.
29

30 Mr. Cooper presented the Staff Reports and described the applications for a
31 subdivision and a flexible setback. Noting that the authorization for the
32 subdivision and the approval criteria is included in Development Code Section
33 40.35.15.3, he suggested that any motion for approval include the phrase "as
34 amended. He pointed out that the report available date is also incorrect, adding
35 that it was available on October 11, 2000, rather than October 27, 1999, in
36 compliance with both the Development Code and State law.
37

38 Mr. Cooper noted that the Conditions of Approval would be discussed in detail,
39 and referred to a Memorandum he had distributed, dated October 18, 2000,
40 proposing four additional Conditions of Approval, as follows:
41

- 42 8. The applicant shall remove all structures that cross over the
43 common property line between Lot 3 and Lot 4 prior to final plat
44 approval;
45

- 1 9. The applicant shall manually clear all brush along the southern
2 property line. The applicant shall have the City arborist on site for
3 all grading associated with the construction of the proposed infill
4 cul-de-sac. Roots that are discovered during grading for the infill
5 cul-de-sac shall be exposed by hand. Roots found within the area
6 of the proposed cul-de-sac shall be cut in direct consultation with
7 the City Arborist. The stumps from any small trees required to be
8 removed shall be ground out;
9
- 10 10. The applicant shall provide a 10-year surety in the event that the
11 Douglas Fir tree located 24 inches from the common property
12 boundary between Tax Lot 1700 (development site) and Tax Lot
13 1800 closest to SW Main Avenue must be removed because of
14 construction impact. The removal must be based on root damage
15 directly associated with the construction of the proposed infill cul-
16 de-sac. The surety shall be equal to 110% of the estimated cost for
17 removal of the tree from a certified arborist. The surety shall take
18 the form of a performance bond payable to the City, cash, certified
19 check, time certificate of deposit, or assignment of a savings
20 account. The surety shall be approved by the City Attorney.
21
- 22 11. The applicant shall provide a revised grading plan prior to the
23 issuance of the Site Development Permit that reduces the grading
24 cut from SW Main Avenue to the cul-de-sac bulb. This condition
25 is placed in order to reduce the grading impact to the root zone of
26 the Douglas Fir trees located on Tax Lot 1800.
27

28 Mr. Cooper described the current zoning and the applicant's proposal to plat four
29 lots of a minimum size of 5,000 square feet plus flexible setbacks. He noted that
30 staff is recommending approval of both of these applications, under certain
31 conditions, with modifications to the flexible setbacks, particularly on Lot 3,
32 where staff is recommending that the setback match those of the surrounding
33 homes in order to maintain the character of the neighborhood. Staff is also
34 recommending an additional five-foot side yard setback on Lot 1 in order to
35 create more space between structures, adding that on Lot 2, the storm water swale
36 currently provides that additional buffering. He discussed the difficult nature of
37 this application, pointing out that it involves an infill situation and adding that the
38 beautiful trees on the site, many of which would be preserved, add to the character
39 of the neighborhood. Concluding, he offered to respond to any questions or
40 comments.

41
42 Chairman Maks referred to the Staff Report for the subdivision, specifically the
43 Conditions of Approval on page 20 and the Conditions of Approval with regard to
44 the trees. He questioned the inclusion of the Conditions of Approval regarding
45 the trees within the subdivision Staff Report.
46

1 Mr. Cooper pointed out that under special conditions in the Development Code,
2 specifically the section pertaining to subdivisions, pointing out that trees can not
3 be removed on lots unless a Building Permit is pulled.

4

5 Chairman Maks emphasized that this must be in Staff Report in order to be
6 included in a motion.

7

8 On question, Mr. Cooper advised Chairman Maks that Section 40.35.15.3.d is the
9 section to which he is referring, adding that it is possible that he has stretched this
10 to some extent.

11

12 Chairman Maks informed Mr. Cooper that he believes he has stretched this,
13 adding that unless they are identified within a significant grove, these trees can
14 not be conditioned if they can't be removed.

15

16 Mr. Cooper referred to the Comprehensive Plan, specifically the residential
17 policies, and discussed the compatibility of the residential character of
18 neighborhoods and maintenance of existing character of these neighborhoods.

19

20 Chairman Maks referred to Section 40.35.15.3.d.10, which states that all trees on
21 individual building lots shall be retained until such time as plans are submitted for
22 a Building Permit. He emphasized that this action is related to the Building
23 Permit, rather than the subdivision.

24

25 Mr. Cooper indicated that he would review the residential policies under the
26 Comprehensive Plan.

27

28 Chairman Maks pointed out that the same goal could be achieved by following
29 the conditions of the flexible setback.

30

31 Mr. Cooper observed that he had cross-conditioned in this manner because the
32 Planning Commission also has the authority to approve the subdivision and not
33 the flexible setbacks.

34

35 Chairman Maks clarified that if this occurs, he needs to make absolutely certain
36 that everything is done legitimately. He referred to Condition No. 4, which
37 specifies that the applicant shall preserve the two 24-inch Cedar trees in Lot 4,
38 and that the applicant shall provide a certified arborist's report that describes the
39 feasibility of the preservation of the tree prior to the issuance of a Building
40 Permit. He questioned which tree this is referring to.

41

42 Mr. Cooper stated that he believes this indicates the 38-inch Douglas Fir, which
43 he believes this particular tree creates the greatest concern.

44

45 Chairman Maks pointed out that this item needs to be included in any motion.

46

1 Commissioner Dunham referred to Condition No. 4, specifically the two 22-inch
2 Cedar trees, observing that these particular trees are in Lot 2.

3
4 Mr. Cooper advised Commissioner Dunham that these trees are actually in Lot 3.

5
6 Commissioner Dunham informed Mr. Cooper that there are several misnumbered
7 lot designations. She referred to the stipulation that the applicant shall provide a
8 certified arborist, indicating that the 38-inch Douglas Fir is significant, and
9 questioned whether this same sentence should also be included in Condition No.
10 5, regarding the 30-inch Oak tree.

11
12 Mr. Cooper observed that this appears to be a suggestion for complete
13 preservation, without qualification.

14
15 Chairman Maks referred to page 19 of the Staff Report, specifically the
16 conclusions.

17
18 Mr. Cooper apologized, advising Chairman Maks that this section does not
19 actually belong there.

20
21 Chairman Maks referred to page 12 of the Flexible Setback Staff Report,
22 specifically Condition No. 8, which provides that the applicant shall provide the
23 report from a certified arborist in the event that all practical and feasible methods
24 for preservation can not preserve the trees. He questioned to whom this report is
25 to be provided.

26
27 Mr. Cooper suggested that the intent was for the applicant's certified arborist to
28 submit this report to the Planning Director, expressing his opinion that this report
29 should be submitted to the City Arborist, as well, for independent review.

30
31 Chairman Maks mentioned that the applicant has requested a two-foot reduction
32 of the required seven-foot landscape strip and questioned whether street trees
33 would be included within this landscape strip.

34
35 Mr. Cooper advised Chairman Maks that the applicant intends to plant street trees
36 within the landscape strip, adding that this will include trees that will be
37 appropriate for a five-foot, rather than a seven-foot, strip. Observing that he had
38 suggested cherry trees, he expressed his opinion that any flowering, ornamental
39 trees would be appropriate.

40
41 Chairman Maks referred to page 9 of the Flexible Setbacks Staff Report,
42 specifically a requirement that the face of the garage be slightly set back from the
43 main body of the house to 22 feet in order to reduce the mass of the home on this
44 lot.

45

1 Mr. Cooper discussed the intent to consider the general character of the
2 community, observing that many of the older homes have garages that are set
3 back. He described this as an attempt to replicate this effect to some degree and
4 an attempt to retain the character of the neighborhood.

5
6 Chairman Maks expressed concern that a future purchaser might have a problem
7 with this condition that does not have much basis, expressing his opinion that this
8 might be slightly easier in the flexible setback area. He noted that there might be
9 a problem if flexible setbacks were not allowed on a particular lot. He referred to
10 a staff recommendation for the construction of a six-foot high good neighbor
11 cedar fence along the entire southern property line, including the planting of
12 English Laurel. He discussed his own good neighbor fence, complete with
13 English Laurel, emphasizing that nothing stops this vegetation, which grows all
14 over the place, throughout the good neighbor fence, becoming a pruning
15 nightmare.

16
17 Mr. Cooper observed that the applicant is most likely pleased with Chairman
18 Maks' comments, adding that they are not anxious to plant the English Laurel.

19
20 Chairman Maks pointed out that the English Laurel does provide a great hedge
21 and a fantastic screen.

22
23 Mr. Cooper indicated that the applicant has expressed an interest in substituting
24 another plant material for the English Laurel and also a solid cedar fence.

25
26 Commissioner Heckman referred to the swale, specifically who will be
27 responsible for the maintenance of this swale.

28
29 Mr. Cooper advised Commissioner Heckman that the City of Beaverton would be
30 responsible for the maintenance of the swale.

31
32 Commissioner Heckman requested clarification of the access to this swale.

33
34 Mr. Cooper informed Commissioner Heckman that access would be gained
35 through a cul-de-sac, through a utility easement.

36
37 Commissioner Heckman questioned why the City should be responsible for the
38 maintenance of this swale.

39
40 Mr. Cooper advised Commissioner Heckman that the City Engineering Design
41 Manual requires the assumption of maintenance for any water quality facilities
42 that provide services for more than one lot.

43
44 Commissioner Heckman requested clarification that the City of Beaverton is
45 responsible for the maintenance of any swale serving multiple lots.

46

1 Mr. Cooper informed Commissioner Heckman that this is correct, following the
2 warranty period.

3
4 Commissioner Heckman referred to page 12 of the Subdivision Staff Report,
5 specifically whether the applicant does not sign the required affidavit.

6
7 Mr. Cooper commented that the plat would not be recorded if the affidavit is not
8 signed.

9
10 Commissioner Heckman noted that this would stop the entire process.

11
12 Mr. Cooper agreed that this would stop the process.

13
14 Commissioner Heckman page referred to page 15 of the Subdivision Staff Report,
15 specifically what is Condition No. 8 and whether underground power is provided
16 at this location.

17
18 Mr. Cooper stated that he does not believe that underground power is available at
19 this location, although there is a standard condition requiring that it be located
20 underground.

21
22 Commissioner Heckman questioned whether the applicant could be permitted to
23 pay an in lieu of fee, rather than locating the power underground.

24
25 Mr. Cooper advised Commissioner Heckman that he would have to check to
26 determine whether this option is available to the applicant, observing that this is
27 dependent upon whether this application had been submitted prior to the effective
28 date of the new language allowing this option.

29
30 Commissioner Heckman referred to page 3 of the Staff Report, specifically notes
31 of the neighborhood meeting, and questioned who owns the driveway.

32
33 Mr. Cooper stated that the driveway/cul-de-sac is proposed to be a public right of
34 way.

35
36 Commissioner Heckman questioned whether this public right-of-way would be
37 required to include sidewalks.

38
39 Mr. Cooper advised Commissioner Heckman that because this involves an infill
40 cul-de-sac, sidewalks are not require, adding that the small amount of daily trips
41 anticipated does not create a major concern.

42
43 Commissioner Heckman questioned who would be responsible for the
44 maintenance of Tract A, adding that he does not see Tract A noted on any of the
45 drawings.

46

1 Mr. Cooper advised Commissioner Heckman that a water quality tract (Tract A)
2 would be included on the final permit.

3
4 Commissioner Heckman referred to page 10 of the Facilities Review, specifically
5 Condition No. 7, and questioned whether there a checklist that makes certain that
6 this will happen.

7
8 Mr. Cooper noted that this is actually up to the individual project manager, adding
9 that the Facilities Review Conditions of Approval are typically attached to the
10 appropriate permit, providing that each individual who is involved will go down
11 and check these items off. The conditions themselves actually become the
12 checklist.

13
14 Commissioner Heckman referred to Street "A", questioning whether this street
15 would be given an actual name.

16
17 Mr. Cooper advised Commissioner Heckman that Street "A" would actually be
18 provided with a name.

19
20 Commissioner Heckman Referred to Condition No. 9, questioning the
21 enforcement of the date covenants and whether the City Attorney approves these
22 covenants.

23
24 Mr. Cooper informed Commissioner Heckman that the City Attorney would
25 normally approve any Conditions, Covenants and Recommendations (CC & Rs)
26 that are included, although there does not appear to be any common landscape
27 areas in this particular situation.

28
29 Chairman Maks questioned who would be responsible for the maintenance and
30 pruning of the proposed English Laurel hedge.

31
32 Mr. Cooper advised Chairman Maks that he has requested a specific plat note,
33 providing that this would be a requirement of each individual landowner.

34
35 Commissioner Heckman questioned who is responsible for the maintenance of the
36 street trees.

37
38 Mr. Cooper commented that each individual property owner would be responsible
39 for street trees.

40
41 Commissioner Heckman questioned who would be responsible for the
42 maintenance of the street trees on the south side of the new street.

43
44 Mr. Cooper noted that the City of Beaverton would likely maintain the street trees
45 on the south side of the new street.

46

1 Commissioner Heckman questioned the location of the water meters.

2
3 Mr. Cooper responded that he is not certain where the water meters would be
4 located.

5
6 Commissioner Heckman observed that he had not realized that this would be a
7 public street, noting that the water meters could be abutting the properties.

8
9 Mr. Cooper agreed that the water meters could abut the properties.

10
11 Commissioner Heckman referred to page 17 of Facilities Review, specifically
12 Item No. 3, requesting clarification of the term "one-foot non-vehicular access
13 strip".

14
15 Mr. Cooper explained that this was formerly referred to as a "spite" strip, because
16 the applicant proposed that a certain house be accessing the cul-de-sac bulb, in
17 order to avoid a double-access and attempt to make certain to end up with the
18 correct number of curb cuts.

19
20 Commissioner Heckman referred to page 11 of the Flexible Setbacks Staff
21 Report, specifically Condition No. 4, questioning who would be responsible for a
22 warranty and the maintenance of the evergreen hedge.

23
24 Chairman Maks observed that the Development Code stipulates that all
25 conditioned landscaping must be maintained in perpetuity by the applicant, noting
26 that this will be included within the deed covenants.

27
28 Mr. Cooper commented that while this is true in commercial zoned land and
29 development review, this is not development review and creates a different issue.

30
31 Observing that the City of Beaverton will be maintaining the street,
32 Commissioner Heckman questioned whether they would also maintain the fence
33 and hedge.

34
35 Mr. Cooper commented that this involves an issue that has been overlooked,
36 expressing his opinion that this situation needs to be considered.

37
38 Observing that this is not clear to him, Commissioner Heckman questioned
39 whether the fence jogs when it reaches the tract on the northern property, and
40 follow down the property line of Lot 3.

41
42 Mr. Cooper stated that his intent had been to follow along the true northern
43 property line.

44
45 Commissioner Heckman noted that the document refers to the northern and
46 southern property line, Lots 1, 2 and 3.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Mr. Cooper indicated that this should be rewritten.

Commissioner Heckman pointed out that this indicates the property line, leaving the swale, with no hedge along it, which would involve bringing it down, stepping over the fifteen feet and continue westerly.

Mr. Cooper stated that the condition is written in such a way that this could be implied, adding that his intent had been to provide a good neighbor fence along the northern property line of existing Tax Lot 1700.

Commissioner Heckman referred to page 11 of the Staff Report, specifically a 10-foot setback on Lot 1, a 20-foot setback on Lot 2, a 10-foot setback on Lot 3, and a 20-foot setback on Lot 4, and requested clarification of whether he is understanding this correctly.

Observing that he had not brought his map, Mr. Cooper stated that Lot 1 has a 10-foot setback on both front and rear, adding that he would have to refer to his map to determine the side setbacks.

Commissioner Heckman mentioned that the numbering of these lots does not appear to be in sequential order.

Mr. Cooper stated that the intent is that Lot 1 have the requested 10-foot setbacks on the front and the rear, with 5-foot setbacks on the sides. Lot 2 would have a 20-foot setback on the front, to match the existing homes on Tax Lots 1600 and 1800, as well as the existing structure. Lot 3 would have a requested 10-foot setback on the front and rear, with a 5-foot setback on the north and a 10-foot setback on the south. Lot 4 would have a 20-foot setback on the front, 5-foot setbacks for the sides, and a 10-foot setback for the rear.

Commissioner Heckman referred to Lot 2, observing that he agrees with the 20-foot front setback, expressing his opinion that the 10-foot rear setback would not allow for the preservation of the 38-inch Douglas Fir.

Mr. Cooper observed that a 25-foot setback is actually the standard.

Commissioner Heckman questioned the request for a 10-foot rear setback on Lot 2, expressing his opinion that this is unnecessary because of the 38-inch Douglas Fir that has been designated for preservation.

Mr. Cooper noted that the applicant had requested this 10-foot rear setback on Lot 2 for the purpose of uniformity, adding that this also creates some flexibility in placing the home. He mentioned that both the applicant and staff desire to preserve this tree, which they feel this tree maintains the character of the area.

1 Commissioner Heckman referred to the older lots, which were generally 50 feet
2 by 100 feet, with a 20-foot front yard setback and a 25-foot rear yard setback. He
3 emphasized that while the older homes were typically smaller, he does not
4 understand the necessity of a 10-foot rear yard setback on Lot 2. He questioned
5 whether staff is still recommending the proposed fence.

6
7 Observing that he is open to suggestions, Mr. Cooper noted that he had intended
8 that the fence be located along the existing property line of Tax Lot 1700, the
9 development site. He noted that this would provide visual screening at the
10 existing property lines, as well as screening development to Tax Lot 1600.

11
12 Commissioner Heckman requested clarification of staff's position regarding a
13 potential condition providing for a cedar fence to be sealed with a quality stain
14 within eight to twelve months following construction.

15
16 Mr. Cooper indicated that providing a sealant should not present a problem,
17 suggesting that this should be done upon installation, rather than eight months
18 later.

19
20 Commissioner Johansen referred to page 6 of the Subdivision Staff Report,
21 requesting clarification of the size of the lot, noting that on page 6, this lot is listed
22 as being 0.59 acres, while page 7 indicates that this lot is 0.69 acres.

23
24 Mr. Cooper clarified that the 30,000 square feet would be 0.69 acres, emphasizing
25 that this is gross acreage. He commented that the 0.59 acres indicated on page 6
26 is inaccurate.

27
28 Commissioner Johansen referred to page 20 of the Subdivision Staff Report,
29 specifically the notion of an arborist report. He emphasized that he has not been
30 satisfied with some of the arborist reports that have been submitted on previous
31 projects, adding that some arborists appear to have the opinion that a single tree
32 indicates that everything within a city should come down. He suggested that he
33 would like some internal review and opinion of the consultant's report by the City
34 Arborist.

35
36 Mr. Cooper advised Commissioner Johansen that the City Arborist has expressed
37 concern with the reports we have received through development, adding that they
38 are more than willing to work with the Planning Commission and staff on the
39 review of development and any required conditions. Observing that this involves
40 a quantity of man-hours, he noted that they have indicated that they are both
41 willing and able to be present on the site during the grading. He added that they
42 have expressed a concern with the potential loss of groundcover on the site.

43
44 Chairman Maks mentioned that several weeks ago, he had brought to the attention
45 of Commissioner Heckman a particular tree preservation plan that had not been
46 followed. He expressed his opinion that if an applicant does not abide by the

1 Conditions of Approval, the City of Beaverton should come down on them with a
2 sledgehammer.

3
4 Commissioner Heckman commented that he had done an extensive site visit
5 regarding this particular tree preservation plan, adding that while he had reported
6 it to the appropriate authorities, he has not yet received any response.

7
8 Chairman Maks observed that the fencing at this site has been returned to where it
9 belongs, adding that a member of the staff should have contacted Commissioner
10 Heckman.

11
12 Commissioner Johansen referred to page 3 of the Flexible Setback Staff Report,
13 specifically the statement regarding a notice of appeal, emphasizing that this
14 application does not involve an appeal.

15
16 Agreeing that this application is not an appeal, Mr. Cooper indicated that he
17 would review and make any necessary changes to this section.

18
19 Commissioner Dunham referred to the issue of the contradictory acreage,
20 expressing her opinion that 0.59 is the net acreage and 0.69 is the gross acreage,
21 after taking out the infill cul-de-sac. She referred to Figures 6 and 7 in the
22 Subdivision Staff Report. She mentioned that the reference to the notice of appeal
23 is included within both Staff Reports. She referred to page 5 of the Subdivision
24 Staff Report, specifically the comment that Main Avenue is a local street with a
25 current right-of-way of approximately 60 feet, suggesting that the amount of feet
26 be inserted. She mentioned that Lombard and Broadway are referred to as
27 collector streets, adding that they should not be included as they are not even in
28 the immediate area or within the detail map provided in the Staff Report. She
29 referred to page 15 of the Subdivision Staff Report, specifically the notation that
30 staff is recommending several conditions that require preservation of seven of the
31 trees. She referred to Condition No. 4, which includes three trees -- one Douglas
32 Fir and two Cedar trees; Condition No. 5, which includes one 30-inch Oak tree;
33 and Condition No. 6, which does not specify a number but indicates an effort to
34 preserve 14-inch and 16-inch Alder trees. She pointed out that the map depicts
35 only two trees, adding that she comes up with a total of six trees, while the Staff
36 Report mentions seven trees.

37
38 Mr. Cooper assured Commissioner Dunham that he would recount the trees,
39 adding that he will also attempt to improve his basic mathematics skills.

40
41 Commissioner Dunham referred to page A-2 of the Facilities Review Technical
42 and Advisory Notes, questioning whether the fencing to include the west side will
43 be included in the Conditions of Approval.

44

1 Mr. Cooper observed that he had intended to leave this up to the discretion of the
2 Planning Commission, adding that the primary impact is at the north and the south
3 of the property.
4

5 Commissioner Dunham referred to page 8 of the Flexible Setback Staff Report,
6 specifically Lot 1, suggesting that line 5 be revised, as follows: "...the ~~west~~ **back**
7 lot line." She referred to page 9, specifically Lot 3, paragraph 2, suggesting that
8 line 7 be revised, as follows: "...and the ~~eastern~~ **western** property line..." She
9 referred to page 11, Conditions of Approval, specifically whether the fence on the
10 western property line is discretionary.
11

12 Commissioner Voytilla referred to page 7 of the Subdivision Staff Report,
13 specifically Section 3.4.2.1, observing that a lot of frontage space for parking
14 would be lost within this cul-de-sac.
15

16 Mr. Cooper observed that one parking space would essentially be eliminated on
17 Main Street.
18

19 Commissioner Voytilla mentioned that this cul-de-sac is being created to serve
20 these lots, with access to each of these new lots, with the result that there would
21 be no parking available around the cul-de-sac.
22

23 Mr. Cooper agreed that virtually no parking would be available within the cul-de-
24 sac.
25

26 Commissioner Voytilla discussed the narrowness of the new street, specifically
27 whether parking would be allowed on this street.
28

29 Mr. Cooper advised Commissioner Voytilla that based on the Fire Department
30 code, no parking would be permitted on this street.
31

32 Commissioner Voytilla suggested that it might be necessary to include this within
33 the Conditions of Approval.
34

35 Mr. Cooper mentioned that this should be included with the site development
36 requirements.
37

38 Chairman Maks emphasized that the joint driveways are private and the cul-de-
39 sac is public.
40

41 Mr. Cooper assured Chairman Maks that site development is reviewed by the Fire
42 Department, who will enforce any necessary conditions.
43

44 Commissioner Voytilla referred to the conditioning for the preservation of the
45 trees, specifically what Mr. Cooper anticipates these efforts to consist of.
46

1 Mr. Cooper indicated that buildings should not be placed in such a manner to
2 directly necessitate the removal of the tree, while attempting to provide some
3 flexibility for the reality of these small lots.

4
5 Commissioner Voytilla observed that trees do not always immediately indicate a
6 problem, adding that sometimes the effects are not noticed until long after the
7 development is in place. Expressing his opinion that the wording is very vague
8 and should be more specific, he discussed the intent to keep the character of the
9 neighborhood intact, which may necessitate the replacement of a tree with a
10 similar tree.

11
12 Mr. Cooper suggested that while the intent itself was not vague, perhaps it should
13 be rewritten more specifically.

14
15 Commissioner Voytilla questioned the length of time the applicant would be
16 responsible for the vegetation, or whether this responsibility could run with the
17 land.

18
19 Chairman Maks expressed concern with conditioning the health of these trees,
20 observing that the applicant is not likely to be involved with the property after
21 several years.

22
23 Mr. Cooper emphasized that the enforcement of such conditions could be very
24 challenging.

25
26 Commissioner Voytilla referred to Item No. 10, requesting clarification of
27 whether this particular tree is situated common to the property line with Tax Lot
28 1800.

29
30 Mr. Cooper advised Commissioner Voytilla that this tree is located on Tax Lot
31 1800, 24 inches from the property line on the south.

32
33 Commissioner Voytilla questioned the size of the actual drip line, specifically
34 how much is overcoming the improvements, and expressed his opinion that it
35 would be impossible to enforce conditions involving the trees, particularly if the
36 property is sold. He questioned whether the City Arborist has inspected this
37 particular tree, relative to the proposed improvements, in order to determine a
38 reasonable method for the protection of this tree.

39
40 Mr. Cooper advised Commissioner Voytilla that two City Arborists had visited
41 the site this morning, adding that they had indicated that they intend to be present
42 during the grading in order to ensure the preservation of the tree.

43
44 Commissioner Voytilla observed that he would like to receive further information
45 from the City Arborist.

46

1 On question, Mr. Cooper informed Commissioner Heckman that an arborist's
2 report is not expected from the applicant.

3
4 Commissioner Voytilla referred to the Facilities Review Condition regarding the
5 one-foot non-vehicular access strip, specifically whether this involves a tract or an
6 actual dedicated strip.

7
8 Mr. Cooper stated that these are not typically allowed, except in the event of
9 particularly odd or unusual circumstances.

10
11 Commissioner Voytilla suggested simply including a note to this effect on the
12 plat.

13
14 Mr. Cooper commented that he believes that this is what the intent is at this time.

15
16 Commissioner Voytilla noted that it might not be feasible for the City of
17 Beaverton to acquire ownership of a one-foot strip of property, adding that this
18 would also actually reduce the square footage of the lot. He referred to the 10-
19 foot flexible setback requested on Lot 1, observing that the easement indicates
20 that this is a 15-foot setback.

21
22 Commissioner Lynott requested clarification of Mr. Cooper's statement indicating
23 that this particular development is in the character of the existing neighborhood.

24
25 Mr. Cooper advised Commissioner Lynott that he had made this statement
26 primarily based upon the density and the fact that each of the proposed lots meets
27 the minimum density requirement of the zone. He described the neighborhood as
28 being characterized absolute variety in the size of lots, ranging from many
29 oversized lots to numerous smaller lots. Through the intent of the preservation of
30 the trees, the character of the neighborhood should be maintained. He noted that
31 the approval of the flexible setback on Lot 2 to 20-feet would help create a pattern
32 throughout the neighborhood that continues to reflect this character.

33
34 Commissioner Lynott referred to the public right-of-way cul-de-sac, specifically
35 whether a private driveway at the rear of the lot had been considered.

36
37 Mr. Cooper commented that this option had been discussed very early in the
38 process, prior to submittal of the application, observing that the Development
39 Code only allows private streets under the P.U.D. process and fee ownership
40 subdivisions. He pointed out that it would be difficult for the applicant to achieve
41 the necessary density that would make this economically feasible while still
42 develop some of the requirements involving common open space that are
43 necessary for the approval of a PUD.

44
45 Chairman Maks requested Mr. Cooper's opinion of whether Lots 1 and 3 are
46 buildable with the proposed 25-foot rear setback, emphasizing that he doesn't

1 want the bike and pedestrian paths to seem like alleys. Observing that he had
2 once been younger, he pointed out that he used to run all over these pedestrian
3 paths, which were residential in character.

4
5 Mr. Cooper discussed constraints with trees and front yards, pointing out that the
6 two rear lots are unconventionally sized lots.

7
8 Chairman Maks expressed his opinion that the trees targeted for preservation have
9 no connection with the rear yard flexible setback that has been requested.

10
11 Mr. Cooper suggested the possibility of increasing this setback, possibly to 20-
12 feet.

13
14 Commissioner Lynott referred to Item No. 10 of the Memorandum dated October
15 18, 2000, specifically the requirement for a 10-year surety regarding the Douglas
16 Fir tree. He questioned whether it is safe to assume that any damage to the root
17 base will be obvious within this period of time.

18
19 Mr. Cooper advised Commissioner Lynott that members of the staff had
20 suggested both five and ten years, adding that while it is difficult to be certain,
21 adverse effects should become noticeable within ten years.

22
23 8:42 p.m. to 8:50 p.m. – break.

24
25 **APPLICANT:**

26
27 **SHELLEY HOLLY**, of Alpha Engineering, introduced the developer, Mike
28 Shipley and Jody Bienenrth of Alpha Engineering, who is the applicant for this
29 project. Observing that they are in agreement with much of Staff Report, she
30 expressed concern with what she referred to as excessive conditions, some of
31 which have already been brought up.

32
33 Ms. Holly referred to Subdivision Condition of Approval No. 6, observing that
34 the two Alder trees are located on Lot 3. She expressed the desire of the applicant
35 to address the issue of the preservation of the trees at the time of the Building
36 Permit, rather than conditioning tree preservation within the actual application.
37 Emphasizing that the applicant is proactive in their desire to preserve the trees,
38 she pointed out that many of their requests for flexible setbacks are directly
39 related to their attempts to preserve these trees, which will benefit the
40 neighborhood and new development. She referred to the proposed requirement
41 for a report from a certified arborist, requesting that this be eliminated from the
42 Conditions of Approval, adding that the application would also like to address this
43 with the Building Permit. She referred to the two Alder trees mentioned in
44 Condition No. 6, observing that the City of Beaverton has designated neither tree
45 as significant trees. She described these two trees as some of the smaller trees
46 located on the property, noting that the way in which they are situated would push

1 the side setback to 15 to 20 feet, which she considers excessive. Noting that she
2 understands staff's request for buffering, she expressed her opinion that several
3 other options have been proposed that would provide necessary buffering.
4

5 Ms. Holly referred to the Flexible Setbacks Condition of Approval No. 4,
6 regarding the English Laurel Hedge, agreeing with Chairman Maks' comments
7 pertaining to this very hearty, very hungry and very invasive vegetation. She
8 suggested that other methods would be more appropriate to provide screening and
9 buffering, requesting that this English Laurel Hedge be eliminated from the
10 Conditions of Approval. She expressed her opinion that the water quality swale
11 provides extra buffering, adding that this hedge is redundant and would interfere
12 with the planting in this water quality swale. She discussed two Fir trees at the
13 northeastern corner of the lot, adding that these trees are situated right against the
14 property line and that the proposed hedge would be intrusive into their root space
15 and would cause problems. She mentioned that a great deal of vegetation already
16 exists to the south of the house in the northeastern corner on Tax Lot 1600,
17 observing that the vegetation provides some buffering. She expressed agreement
18 with the suggestion for a six-foot Cedar fence, noting that a good neighbor fence
19 does allow vegetation to grow in and out of the fence and would provide less of a
20 buffer than a solid fence. She mentioned that the hedge would also interfere with
21 the street trees that are required in the planter strip. She referred to page 11 of the
22 Staff Report, specifically the proposed location and maintenance of the hedge.
23 She pointed out that if this particular hedge is required, the maintenance of such a
24 hedge is very excessive, adding that other methods are available that would
25 achieve the desired buffering. She emphasized that no flexibility is being
26 requested in the side setbacks.
27

28 Ms. Holly referred to the handout distributed this evening, specifically Item No. 8,
29 noting that it should indicate Lot 2 and Lot 4, rather than Lot 3 and Lot 4, prior to
30 final plat approval, adding that Lots 3 and 4 are not contiguous. She mentioned a
31 tree on Lot 1800, to the south of the property, stating that the applicant agrees to
32 make every possible attempt to maintain the health of the tree roots, as grading is
33 being done, and that some of the removal shall be done by hand. She indicated
34 that they would like to specify in the area of that specific tree, and not the entire
35 southern property line. Referring to Item No. 10, she suggested that liability for
36 the health of the tree be limited to two years, rather than the recommended 10-
37 year surety. She questioned the feasibility of treating the Cedar fence eight
38 months after the development, expressing concern with access issues involving
39 any new owners and requesting that this condition be eliminated.
40

41 Chairman Maks questioned whether the applicant intends to preserve the 32-inch
42 Oak tree.
43

44 Ms. Holly advised Chairman Maks that the applicant intends to preserve a 32-inch
45 Oak tree located in the southwest corner of Lot 1, adding that a different lot
46 number may have been referred to.

1 Chairman Maks commented that the document states Oak 32 to be saved at
2 builder discretion, adding that this is not what she had indicated.

3

4 Ms. Holly clarified that she had been referring to the 30-inch Oak tree, noting that
5 the 32-inch Oak tree is located more in the northeast corner of Lot 1 and that she
6 is not certain whether it can be preserved.

7

8 Chairman Maks questioned what action the applicant would take if the application
9 for the Flexible Setbacks were denied.

10

11 Ms. Holly advised Chairman Maks that denial of the Flexible Setbacks would
12 make it necessary to have very creative architect.

13

14 Chairman Maks pointed out that preservation of the 32-inch Oak tree and the
15 required 25-foot rear setback would not allow for a house on the lot.

16

17 Ms. Holly clarified that while a house could not be located in the southwest
18 corner of the lot, a portion of a house could be located in the northwest corner of
19 the lot.

20

21 Chairman Maks suggested that the applicant not request any flexible setbacks if
22 they can not comply with the Conditions of Approval, questioning what she
23 would do if the application for flexible setbacks were denied.

24

25 Ms. Holly agreed that denial of the flexible setbacks would make development of
26 the property extremely difficult.

27

28 **JODIE BIENERTH**, representing Alpha Engineering, observed that one of the
29 implications of denying the setbacks is that would necessitate removal of some of
30 the trees that the applicant is attempting to preserve.

31

32 Chairman Maks advised Ms. Bienerth that he is not convinced of this.

33

34 Ms. Bienerth stated that a 25-foot rear setback on Lot 3 would necessitate removal
35 of the Fir tree in the front in order to create any type of reasonably buildable area
36 on which to locate a home, and a 25-foot rear setback on Lot 1 would result in a
37 40-foot by 45-foot home.

38

39 Ms. Holly assured Chairman Maks that she understands his concern, adding that
40 this particular subdivision is rather dependent upon the approval of the flexible
41 setbacks, which is why the request has been submitted.

42

43 Chairman Maks advised Ms. Holly that a better sales job is necessary.

44

45 Ms. Bienerth mentioned that the applicant would like to preserve this very
46 beautiful Fir tree.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Chairman Maks questioned how granting a 10-foot rear setback would accomplish the preservation of this Fir tree.

Ms. Bienenrth advised Chairman Maks that the applicant would be locating the home further back from the front in order to preserve the tree.

Chairman Maks requested clarification of how this home would be located back from the front of the lot.

Ms. Bienenrth informed Chairman Maks that the house would be pushed further back towards the west property line. She noted that by requesting the rear and the front setbacks for Lot 3, the applicant had considered what would be a viable building envelope to provide the maximum space for a building.

Chairman Maks mentioned that the 16-inch Fir tree would be preserved at the builder's discretion, expressing his opinion that the odds of preserving this tree are quite slim and that this has no bearing on the rear setback for Lot 3. He questioned the necessity of the rear setback on Lot 1.

Ms. Holly advised Chairman Maks that at one time, the applicant had considered the possibility of saving the 32-inch Oak tree in the eastern portion of the lot and the 30-inch Oak tree in the western portion of the lot, through some very creative architecture. She emphasized that while this would be their intent, she is not certain that this is possible.

Chairman Maks referred to Lot 1, pointing out that the proposed 10-foot rear setback cuts right through the center of the 30-inch Oak tree designated for preservation, adding that the drip line extends five feet or more into the other area.

Ms. Holly referred to an illustration, pointing out that a 10-foot rear setback had been requested on Lot 1 and agreeing that this does run directly through the tree they are attempting to preserve. Gesturing to the location on the illustration, she explained that the applicant would like to leave a certain portion of the lot open, through requesting a 10-foot rear setback in a certain portion. She noted that a condition requiring preservation of this tree would not allow a house to be located there. She further explained the possibility of locating a portion of a house there, and extending the structure 25-feet back into the rear setback area.

Chairman Maks emphasized that preserving a tree at the builder's discretion is a moot point.

Observing that this is hypothetical, Ms. Holly commented that there are no definite plans for the houses, as yet, adding that the 32-inch Oak tree may have to be eliminated.

1 Chairman Maks observed that a denial of the flexible setbacks could result in a
2 subdivision that would allow removal of all of the trees, emphasizing that none of
3 these trees are significant or protected.

4

5 Ms. Holly advised Chairman Maks that this is not the intention of the applicant.

6

7 Noting that he is aware that this is not the applicant's intent, Chairman Maks
8 observed that this is simply the counter-point to the point that he is making.

9

10 Commissioner Heckman questioned whether the applicant would consider
11 eliminating the hedge and installing a fence along the rear property line, in
12 addition to what is already located there.

13

14 Ms. Holly agreed that this additional fence is an option that the applicant would
15 consider, adding that they are willing to fence three sides of the property.

16

17 Commissioner Heckman questioned who would receive the benefit of the finished
18 side of this proposed fence.

19

20 Ms. Holly advised Commissioner Heckman that she had not considered which
21 side of the fence would be finished.

22

23 **MIKE SHIPLEY**, the developer for the project, mentioned that naturally the
24 applicant prefers the finished side to be located on the inside, adding that he is
25 aware that sometimes requirements provide that the finished side be located on
26 the outside.

27

28 Commissioner Heckman suggested that if an individual installs a solid fence, the
29 neighbor should have the option of viewing the good side.

30

31 Mr. Shipley commented that this should also depend upon who is paying for the
32 fence.

33

34 Commissioner Heckman expressed his opinion that the neighbor should not be
35 forced to view the bad side of the fence even if Mr. Shipley is paying for it.

36

37 Observing that he has installed several of these fences, Mr. Shipley stated that
38 generally the neighbor is delighted to have the fence provided, regardless of
39 which side they view.

40

41 Commissioner Heckman suggested that Conditions of Approval could be included
42 in order to adjudicate the issue regarding the hedge. He questioned whether Ms.
43 Bienerth's reference to several Douglas Fir trees should have been Cedar trees.

44

45 Ms. Bienerth advised Commissioner Heckman that he was correct, the trees at the
46 front of that lot are Cedar trees.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Commissioner Heckman questioned whether these Cedar trees had been examined to determine the feasibility of preservation, specifically what type of pruning should be done to ensure their health.

Observing that she is not an arborist, Ms. Bienerth expressed her opinion that these trees are currently in healthy condition.

Commissioner Heckman referred to the Douglas Fir tree on Lot 1800, observing that the grade would be changed to approximately one foot over the root zone.

Ms. Bienerth noted that the applicant had not had the opportunity to consult with an arborist, emphasizing that they foresee no problem with revising the grading in an attempt to preserve that tree, as long as they are still able meet all the requirements of City Code.

Commissioner Heckman referred to Sheet 3, observing that it would be necessary to go five feet beyond the canopy of this tree and that it would not be possible to change the grading without putting that tree in stress.

Ms. Bienerth repeated that the applicant had not had the opportunity to consult with an arborist, emphasizing that this would be necessary in order to determine the best interests of the tree.

Commissioner Heckman questioned the feasibility of creating a usable structure on Lot 2 while preserving the 38-inch Fir tree.

Ms. Bienerth informed Commissioner Heckman that she had consulted with the developer who has indicated that this should not create a problem.

Mr. Shipley offered to expand on this issue, expressing his opinion that the Planning Commissioners might not have a clear picture of the situation.

Commissioner Heckman observed that he feels he has a clear understanding regarding the 38-inch Fir tree, repeating his concern with locating a salable home on that lot along with preserving this tree.

Mr. Shipley advised Commissioner Heckman that he does not anticipate a problem with preserving the tree and constructing a salable home on the lot, expressing his opinion that while that particular setback will not create an issue, the rear setbacks are extremely important. He indicated on the illustration his idea for working with this lot along with the setback, emphasizing that the applicant intends to make every effort to preserve the large, well-established trees.

Commissioner Heckman questioned whether coming within 35 feet of the lot line would allow for the construction of a salable home.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Mr. Shipley indicated that this would necessitate some calculations.

Ms. Bienerth commented that this would provide a 45 net.

Commissioner Heckman observed that this would allow for the preservation of the tree.

Observing that this is not what he had in mind, Mr. Shipley advised Commissioner Heckman that he could work with 25 feet.

Commissioner Heckman pointed out that 25 feet would put the structure within the root zone of the tree.

Mr. Shipley explained that his intent had been to create a home that would go around at least ten feet from those trees.

Commissioner Heckman assured Mr. Shipley that it would be necessary to stay more than ten feet from those trees.

Mr. Shipley agreed, adding that he does not intend to argue this point, suggesting the possibility of locating a family room or living room in such a way to gain some square footage while keeping this beautiful Oak tree intact. He emphasized that he had requested the flexible setbacks to accommodate him to get around the trees and preserve as many as possible, pointing out that restrictions would leave no option other than the removal of some of the trees he prefers to preserve.

Chairman Maks observed that the standard setback of 25 feet would prevent construction near this tree without requiring a flexible setback. He expressed his opinion that this is not related to the ability to use or not use that particular portion of the property with regard to that other tree.

Mr. Shipley advised Chairman Maks that he does not understand this rationale.

Chairman Maks pointed out that 25 feet is the standard setback for an R-5 zone.

Mr. Shipley noted that the reason the applicant is requesting the flexible setback is to allow for construction closer to the fence while preserving this particular tree and still maintain square footage in the house.

Chairman Maks advised Mr. Shipley that his argument for the maintenance of square footage is that denial of the flexible setback would not allow the applicant to move within that area anyway. He noted that Mr. Shipley wants the flexible setback in order to achieve a certain square footage, emphasizing that nothing is gained because the tree would be staying there even with a standard 25-foot setback.

1 Ms. Holly advised Chairman Maks that there might be some gained footage in the
2 northwest corner, directly north of that tree, noting that a portion of the house...

3
4 Chairman Maks commented that he understands the issue regarding the portion of
5 the house.

6
7 Ms. Bienenrth pointed out that the applicant hopes to be able to save the 32-inch
8 Oak tree in the front, emphasizing that there is no actual house plan at this time.
9 She stressed that they would like to be able to save as many of the trees as
10 possible.

11
12 Chairman Maks requested clarification that these efforts are to retain this area in
13 order to save the 32-inch Oak tree that is located practically in the middle of the
14 lot.

15
16 Ms. Bienenrth advised Chairman Maks that she is not certain that it is possible to
17 preserve this 32-inch Oak tree.

18
19 Chairman Maks suggested that he would like to get the opinion of 99 different
20 developers regarding the feasibility of preserving this 32-inch Oak tree, adding
21 that because this tree is located right in the middle of the lot, he is fairly certain of
22 what the results would be.

23
24 Ms. Bienenrth agreed that it is unfortunate that this particular tree is located right in
25 the middle of the lot, adding that there are many beautiful trees located on the lot.

26
27 Chairman Maks noted that she is making the argument for the rear setback on that
28 particular lot around a 32-inch Oak tree that is located right in the middle of the
29 lot.

30
31 Ms. Bienenrth commented a 25-foot rear yard setback would almost guarantee the
32 removal of this particular tree, adding that the 10-foot rear flexible setback would
33 provide an opportunity for the preservation of the tree.

34
35 Chairman Maks requested clarification of the odds of preserving this particular
36 32-inch Oak tree.

37
38 Ms. Bienenrth agreed that the odds of preserving this particular 32-inch Oak tree
39 are not likely very great, questioning whether it is worth the effort of attempting
40 to save this tree.

41
42 Commissioner Heckman expressed his opinion that it is not work the effort to
43 attempt to preserve the 32-inch Oak tree. Agreeing that the applicant has made a
44 commendable effort in an attempt to preserve this tree, he expressed his opinion
45 that this tree will not necessarily indicate stress within two years. He further
46 explained that he has observed trees that have not shown any effect for five or

1 seven years, adding that the attempt to save this tree could be causing more harm
2 than good. He pointed out that the end result is an excessive removal cost for the
3 future purchaser, adding that removal of a tree that had been preserved in his own
4 yard had cost him \$1,100. He questioned the feasibility of preserving a 14-inch
5 tree on Lot 3, noting that the applicant would be regrading in that particular area.

6
7 Ms. Bienenrth advised Commissioner Heckman that while some grading is planned
8 on Lot 3, it is possible that adjustments could be made to allow for the
9 preservation of this tree.

10
11 Commissioner Heckman questioned whether Ms. Bienenrth has any concerns
12 regarding the preservation of the tree located within the easement.

13
14 Ms. Bienenrth referred to the 16-inch Fir tree in Lot 1, expressing her opinion that
15 this particular tree could be preserved.

16
17 Commissioner Johansen questioned whether the applicant has an 8-1/2" by 11"
18 copy of _____, complete with tree and Lot
19 locations, available for the Planning Commissioners to review.

20
21 Ms. Holly advised Commissioner Johansen that this particular document had just
22 been prepared.

23
24 Commissioner Dunham pointed out that the lot numbers on the application and
25 Staff Report are different, adding that this has created some of the confusion.

26
27 Referring to the utilities and driveway to be installed in the area, Commissioner
28 Voytilla questioned the feasibility of preserving the 16-inch Fir tree located
29 within the easement, which is to be preserved at the discretion of the builder.

30
31 Ms. Bienenrth emphasized that preserving the 16-inch Firtree located within the
32 easement would be extremely difficult.

33
34 Chairman Maks expressed appreciation to Ms. Bienenrth for this honest response.

35
36 Commissioner Heckman questioned whether preserving the 16-inch Fir tree
37 within the easement would be merely difficult or nearly impossible.

38
39 Noting that she is not an arborist, Ms. Bienenrth advised Commissioner Heckman
40 that she does not feel qualified to make this determination.

41
42 Chairman Maks pointed out that much of the rationale for the application for
43 flexible setbacks is contingent upon particular trees, adding that much of this area
44 is actually located within storm water and access easement.

45

1 Ms. Bienenrth advised Chairman Maks that this issue is not included within the
2 applicant's argument for approval of the flexible setbacks.

3
4 Commissioner Heckman referred to Ms. Bienenrth's reluctance to stain the fence,
5 observing that a Cedar fence that has not been maintained creates a problem.

6
7 Ms. Bienenrth noted that Commissioner Heckman had made a valid point, adding
8 that this would be someone else's house by then and access might be more
9 difficult.

10
11 Commissioner Heckman questioned whether Ms. Bienenrth had ever seen a five-
12 year-old Cedar fence that had never been treated, emphasizing that it is not
13 attractive. He mentioned that while the applicant had expressed agreement with
14 replacing the English Laurel Hedge with a Cedar fence, there appears to be an
15 issue regarding staining this fence. He questioned the possibility of modifying the
16 grading to protect the tree on Lot 1800.

17
18 Observing that the applicant would make every attempt to preserve the tree on Lot
19 1800, Ms. Bienenrth emphasized that it is not possible to guarantee the results.

20
21 Commissioner Heckman pointed out that there should be no grading within the
22 root zone of the tree.

23
24 Ms. Bienenrth repeated that it is not possible to guarantee this, observing that the
25 applicant must work within engineering standards of the City of Beaverton.

26
27 Commissioner Heckman questioned what buffer the applicant expects to derive
28 from the swale.

29
30 Ms. Holly advised Commissioner Heckman that what she means by buffer is
31 actually a buffer of space, adding that the swale is fifteen feet, which provides a
32 buffer of fifteen feet from the northern property line, plus an additional five feet
33 from the standard side setback. She pointed out that the closest a building could
34 possibly be located to the property in Lot 1600 would be twenty feet. She
35 emphasized that in their attempt to accomplish the best possible results, the
36 applicant had prepared several revisions of this plan. She discussed the infill bulb
37 proposed by Mr. Cooper, adding that the radius requirements had resulted in Lot 3
38 being located further back than they had anticipated.

39
40 Commissioner Lynott requested clarification of the term water quality swale.

41
42 Chairman Maks advised Commissioner Lynott that a water quality swale is a
43 ditch.

44
45 Ms. Holly described a water quality swale as a very beautiful ditch.
46

1 Ms. Bienenrth described the proposed water quality swale as a very shallow ditch,
2 typically 1-1/2 feet deep, including four to one side slopes, and plantings, such as
3 rushes and sedges -- grassy, growy vegetation out of the bottom of the swale.
4

5 Ms. Holly emphasized that this is a requirement of Unified Sewerage Agency
6 (USA) and the City of Beaverton.
7

8 Ms. Bienenrth pointed out that the water quality swale serves the purpose of water
9 quality treatment before the water is released into the system.
10

11 Commissioner Heckman pointed out that he does not see where the swale
12 connects to another source.
13

14 Ms. Bienenrth advised Commissioner Heckman that the applicant is proposing a
15 public storm system on the west end of 9th Street, directly to the north, adding that
16 their proposal includes bringing a connection up to this property through the
17 alleyway along the back. She added that the applicant would be replacing some
18 pipe and several manholes in this area.
19

20 On question, Commissioner Johansen indicated that he had no comments or
21 questions at this time.
22

23 Commissioner Dunham suggested that the applicant make an effort to clarify the
24 numbering of the lots, emphasizing that this has created some confusion.
25

26 Apologizing for the confusion, Ms. Holly expressed her appreciation to
27 Commissioner Dunham for calling attention to the incorrectly numbered lots.
28

29 Observing that the applicant has no building plans at this time, Commissioner
30 Voytilla pointed out that it is uncertain whether the setback proposal would even
31 work. He questioned whether Ms. Holly is requesting the maximum in an effort
32 to preserve any possible options.
33

34 Ms. Holly advised Commissioner Voytilla that the applicant is attempting to
35 obtain leniency, rather than the maximum.
36

37 Commissioner Voytilla commented that he is pleased with the applicant's desire
38 to preserve the trees, adding that he is curious that more information is not
39 available regarding these trees, relative to the necessary spatial relationships.
40

41 Chairman Maks reminded Commissioner Voytilla that some of these decisions are
42 up to the discretion of the builder.
43

44 Commissioner Voytilla referred to the street tree layout on the cul-de-sac, relative
45 to the utility services and driveway cuts, observing that many utilities and services
46 will be coming in to three or four lots. He questioned the feasibility of the

1 proposed street trees, pointing out that even the garbage truck needs sufficient
2 space.

3
4 Ms. Holly advised Commissioner Voytilla that his concerns are well noted,
5 adding that the applicant is attempting to conform as much as possible and that
6 they had been instructed to go that extra step in application process.

7
8 Commissioner Voytilla referred to page 6 of the Subdivision Staff Report,
9 specifically Section 3.4.3.h., requesting additional detail regarding justification to
10 the proposal to provide increased moderate and low cost housing.

11
12 Ms. Holly observed that the varied lot sizes and adding to the housing stock in
13 this neighborhood adds to the supply of moderate and low cost housing.

14
15 Commissioner Voytilla mentioned the cost of achieving this goal and the burden
16 this might create for the future homeowners.

17
18 Ms. Holly pointed out that without the infill bulb, the minimum lots required for
19 this subdivision had been four lots, adding that the addition of the infill bulb
20 reduced this minimum to only three lots. She noted that the cost of improvements
21 with the infill bulb has increased, expressing her opinion that it is more
22 economically feasible to create four lots while still providing a variety of lot sizes
23 within this neighborhood.

24
25 Commenting that he is fully aware of the motivation on the part of the developer,
26 Commissioner Voytilla questioned whether the applicant had studied the potential
27 financial impact to the eventual users of these lots, specifically maintenance
28 issues and possible tree removal.

29
30 Ms. Holly expressed her opinion that this cost would be realized in a more
31 immediate future if only three lots are provided, noting that theoretically, these
32 larger lots would be more expensive.

33
34 Observing that Mr. Shipley had not been available during the neighborhood
35 meetings, Commissioner Lynott requested clarification that some of the neighbors
36 had actually spoken to him at other times.

37
38 Mr. Shipley advised Commissioner Lynott that he had spoken to some of the
39 neighbors prior to the meetings.

40
41 Commissioner Lynott requested clarification of why Mr. Shipley feels that this
42 proposal conforms to the character of the existing neighborhood.

43
44 Mr. Shipley referred to a house in the neighborhood, to the south, with a sort of a
45 Cape Cod type look, adding that he intends to utilize that theme on these lots.
46

1 Commissioner Lynott questioned whether the applicant had considered a private
2 drive rather than the public right-of-way cul-de-sac.

3
4 Mr. Shipley advised Commissioner Lynott that the applicant had explored all
5 available options, adding that initially, they had considered two sets of duplexes,
6 although Mr. Cooper had convinced them that this was not the best idea.

7
8 Commissioner Lynott referred to the bike path behind the two properties,
9 specifically the effect of two double-story homes right up against this bike path.

10
11 Mr. Shipley expressed his opinion that this should not create a problem.

12
13 Ms. Holly observed that the applicant intends to preserve the 30-inch Oak
14 canopies over the walkway, which adds a nice element to the bike path.

15
16 Commissioner Lynott noted that while everyone approves of the applicant's desire
17 to preserve as many trees as possible, it is obvious that some of the trees will have
18 to be removed.

19
20 Chairman Maks questioned the approximate depth of the proposed swale.

21
22 Ms. Bienerth advised Chairman Maks that the swale would be as shallow as
23 possible, both for safety reasons and aesthetics, adding that the upper end of the
24 swale will be approximately 2-1/2 feet deep and the lower end will be
25 approximately 1-1/2 feet deep.

26
27 Chairman Maks expressed his approval of the development of this property and
28 the increased density, emphasizing that while economics is obviously an issue for
29 the developer, it is not applicable criteria for a decision on this application.

30
31 Commissioner Voytilla mentioned concern with the proposed English Laurel
32 Hedge, questioning whether the applicant would be more comfortable with a
33 requirement for an evergreen hedge, as opposed to a specific species of hedge.

34
35 Observing that the applicant would prefer not to install a hedge, Ms. Holly
36 commented that this requirement is excessive and would involve the unnecessary
37 enforcement of maintenance at a later time.

38
39 Commissioner Voytilla mentioned that a fence also requires maintenance.

40
41 Ms. Holly agreed, emphasizing that while a fence requires some maintenance, it
42 does not grow like a hedge does.

43
44 Commissioner Heckman suggested the possibility of removing the wooden fence
45 and installing a living fence.

46

1 Noting that he had considered a living fence, Commissioner Voytilla expressed
2 his opinion that sometimes fences begin to resemble little corrals. He mentioned
3 that he had been involved in a project that had included arbor vitae, observing that
4 vegetation is generally the underlying element that creates the atmosphere of a
5 nicer neighborhood.

6
7 Ms. Holly agreed that the vegetation is an excellent idea, adding that while they
8 had focussed on a fence, the applicant agrees with this concept.

9
10 Commissioner Heckman questioned whether the applicant had considered
11 removal of the existing house.

12
13 Ms. Holly noted that she had not been involved in any discussions concerning the
14 removal of the existing house.

15
16 Observing that he had considered removal of the existing house, Mr. Shipley
17 commented that this was not economically feasible.

18
19 **PUBLIC TESTIMONY:**

20
21 **FRANK KIRK,** referred to suggestions regarding changing the grade of
22 turnaround of the cul-de-sac, emphasizing that no matter how it is changed, it will
23 end up having a detrimental effect on both of his pieces of property. He
24 expressed concern with exposure to the constant wash of headlights through both
25 living rooms, both dining rooms and one of the kitchens of his homes. He
26 mentioned that he is a former employee of the City of Beaverton, adding that
27 while he had owned his own landscaping business, he had planted thousands of
28 trees in this area. Noting that he personally has one of the oldest existing active
29 nurseryman's licenses issued by the State of Oregon Department of Agriculture,
30 he emphasized that he has had this license since he was 14 years old. He
31 expressed his opinion that this application should be put on hold until the opinion
32 of a licensed arborist besides somebody from the City of Beaverton has been
33 obtained, and discussed his concerns with trees and drip lines.

34
35 Chairman Maks urged Mr. Kirk to summarize his testimony.

36
37 Mr. Kirk expressed his opinion that far too little research has been done on the
38 impact of disturbing this ground, emphasizing that there is too little research and
39 information to approve this application with a good conscience.

40
41 Commissioner Heckman requested clarification of Mr. Kirk's comments regarding
42 the drip line on a tree on Lot 1800, specifically how far this extends northerly.

43
44 Mr. Kirk advised Commissioner Heckman that this drip line is approximately 45
45 feet in diameter, which means it is approximately 22-1/2 feet from the trunk,
46 adding that this would bring it slightly past the middle of the street. He

1 emphasized that any grading is going to be chewing up the roots within four feet
2 of the trunk of that tree, which would have no chance of surviving.

3
4 Commissioner Heckman advised Mr. Kirk that five feet from edge of canopy
5 brings this almost to the center of the bulb.

6
7 **PAT MORAN**, observed that the reference to his house on the map is inaccurate,
8 adding that their house is actually located closer to property line. Noting that he
9 does not particularly care for the idea of a Cedar fence, he commented that he
10 would like the option of a living fence. Mentioning that part of the charm of his
11 neighborhood involves the mature trees, he expressed concern with the potential
12 loss of these trees.

13
14 **CAMMIE MORAN**, expressed concern that the root systems of the trees
15 removed by Mr. Shipley could adversely affect other trees in their neighborhood,
16 adding that some of these root systems intertwine. She mentioned that one of the
17 Fir trees proposed for removal could very likely necessitate the removal of a Fir
18 tree on her property, at an approximate cost of \$1,500. She discussed the swale
19 and the potential impact on her Hazelnut tree, emphasizing her concern with
20 financial and aesthetic impact on her property. Concluding, she commented that
21 she appreciates Mr. Shipley's efforts and would like to work with him to protect
22 the best interests of the entire neighborhood.

23
24 Mr. Moran referred to the area around the swale, adding that he prefers that the
25 proposed barrier extend around the entire swale in order to retain some of the
26 outdoor, open space. He urged consideration of an adjustment for the
27 preservation of the trees.

28
29 Chairman Maks emphasized that the Morans are concerned with retaining as
30 many trees as possible and the effect upon their own trees. He pointed out that
31 the City of Beaverton attempts to protect trees in groves, adding that they have
32 more of a tendency to survive. He questioned how the Morans feel about the
33 proposed subdivision.

34
35 Mr. Moran observed that while he would prefer to leave the property in its present
36 state, he favors two lots, rather than three lots.

37
38 Ms. Moran expressed concern with what kind of people would be moving into
39 these homes, emphasizing that she does not want another slumlord in the
40 neighborhood.

41
42 Noting that his neighbors do not like him either, Chairman Maks advised Ms.
43 Moran that while it is unfortunate, we can not choose our neighbors.

44
45 Commissioner Heckman requested clarification of whether Mr. Moran prefers a
46 fence or a hedge by the swale.

1 Mr. Moran informed Commissioner Heckman that he prefers greenery to a fence.

2
3 **JEFF GREER**, discussed the proposed clearing of brush and other fir trees,
4 expressing his opinion that the two-year time limit proposed is insufficient. He
5 mentioned that he would not be thrilled to have a view of the ugly side of the
6 fence, expressing concern with aesthetics, property values, and the potential
7 detriment to the neighborhood. He discussed the potential for loss of trees and the
8 possibility of lower-income housing. Observing that he had understood that these
9 were considered part of a significant grove, he added that he stands corrected on
10 this issue. He expressed his preference for two additional lots behind the existing
11 house.

12
13 **KARI GREER**, mentioned that she had also been under the impression that the
14 trees in question were part of a significant grove, noting that although these trees
15 might not be considered significant, they are sizable. She discussed Conditions of
16 Approval No. 7, requiring the installation of a chain link fence to protect the root
17 system of trees on Tax 1700, expressing her opinion that this protection should be
18 extended to her trees as well. She commented that while she supports a fence, it
19 is possible for both sides of a fence to have an attractive appearance. She
20 mentioned that the Cape Code house referred to by Mr. Shipley is her house,
21 adding that his comments have encouraged her to believe that he intends to
22 construct homes that will actually fit into the existing neighborhood. She
23 expressed her opposition to an aggressive hedge, emphasizing that the proposed
24 English Laurel would create problems. She requested that a City Arborist should
25 prepare a plan that includes the trees along her northern property line. She stated
26 that she would also prefer to wait for an arborist report determining the length of
27 the surety. She questioned the necessity and feasibility of dividing this property
28 into four lots, expressing her preference of two or three lots. She disagreed with
29 the density requirements for a minimum of four subdivided lots in a lot of this
30 side, expressing her opinion that if this minimum density creates a problem, the
31 City of Beaverton should allow a development of less than this minimum. She
32 urged the Planning Commissioners to reconsider this application.

33
34 Commissioner Heckman and Commissioner Lynott commended Ms. Greer for her
35 well-organized presentation.

36
37 **REBUTTAL:**

38
39 Ms. Holly agreed that Ms. Greer had a well-organized presentation and had
40 brought up many valid points.

41
42 At the request of Mr. Cooper, Chairman Maks allowed a brief recess from 10:35
43 p.m. to 10:47 p.m.

44
45 Commissioner Heckman questioned whether the applicant is aware of the 11:00
46 p.m. deadline.

1
2 Ms. Holly observed that Ms. Greer had initially been a strong proponent of a
3 three-lot subdivision, pointing out that with the infill bulb, which takes away from
4 the net area, three lots would actually be lower than the minimum density
5 requirement. She mentioned that the possibility of a five-lot subdivision had been
6 considered at one point, emphasizing that a four-lot subdivision was a very good
7 project for this particular property, adding that this is the primary reason that the
8 applicant had not proposed three lots. She pointed out that the trees on the Greer
9 property would provide quite a visual buffer between their property and the new
10 development, although they are not included in any designated significant stand of
11 trees. She addressed the Greers' concern with a potential decrease in property
12 values and a reference to a slum lord, pointing out that the developer's intention is
13 to provide housing at a cost of approximately \$160,000, which is mid-range, not
14 low-income. She mentioned that this particular neighborhood is characterized by
15 a lot of variety, and also addressed concerns regarding the root systems of the
16 trees.

17
18 Ms. Bienenrath discussed issues regarding the swale, observing that although the
19 applicant would support the suggestion to eliminate this swale, unfortunately this
20 is a requirement of USA. She noted that she would have to do some research to
21 determine whether the swale would have any adverse effect upon the Hazelnut
22 tree.

23
24 Ms. Holly responded to Mr. Kirk's concerns regarding the trees, suggesting that
25 the City Arborist should review the situation, adding that the applicant should
26 absorb the additional cost.

27
28 Ms. Bienenrath observed that the applicant realizes that the trees are more of an
29 issue than originally anticipated, requesting a continuance and adding that the
30 applicant is willing to waive the 120-day rule in order to obtain more information.

31
32 Commissioner Heckman **MOVED** and Commissioner Voytilla **SECONDED** a
33 motion that the 11:00 p.m. rule be waived until 11:10 p.m.

34
35 Motion **CARRIED**, unanimously.

36
37 Mr. Cooper discussed the subdivision approval criteria, observing that the first
38 criteria for approval of subdivision are compliance with the Comprehensive Plan.
39 He referred to Section 3.4.3.R. and 3.4.3.U. (Residential Policies), noting that
40 both policies require preservation of mature trees within the community and
41 respect of the natural vegetation on-site.

42
43 Observing that he has a request for a continuance and does not intend to close the
44 Public Hearing at this time, Chairman Maks requested that the Planning
45 Commissioners identify their concerns for the applicant's response at the
46 continued Public Hearing.

1 Commissioner Heckman emphasized that the Commissioners are being requested
2 to approve saving trees on which they have no good information. He also
3 expressed concern with the fencing, screening and what he considers too many
4 unanswered questions.

5
6 Commissioner Johansen requested clarification of whether the flexible setbacks
7 requested are the minimum necessary, suggesting that the applicant provide more
8 detail and obtain additional information from an arborist.

9
10 Commissioner Dunham clarified that it is necessary to make certain that everyone
11 concerned is discussing the same criteria, observing that in Section 3.4.3., Mr.
12 Cooper had cited R in the Staff Report, rather than L, and that U should be N.

13
14 Mr. Cooper assured Commissioner Dunham that he would refer to the
15 Comprehensive Plan to obtain his information.

16
17 Commissioner Dunham emphasized that while these trees are not included on the
18 significant tree list, they are assets to the community and should be considered in
19 any decision.

20
21 Mr. Cooper pointed out that these trees were included in the City's significant tree
22 list but not adopted by the City Council to be included among the protected
23 groves.

24
25 Commissioner Voytilla expressed concern with the drip lines, building envelopes
26 and the ability to enforce preservation agreements in the future. He mentioned
27 that any covenants would be reviewed by the City Attorney and expressed his
28 concern with impacts to the neighborhood.

29
30 Commissioner Lynott commented that he is still not sold on four lots, adding that
31 he would consider maybe three. He mentioned that he is also not enthused with a
32 public right-of-way and cul-de-sac, expressing his opinion that this should be
33 more of private drive, at an angle that might be able to reduce some of the
34 exposure to the frontal lots.

35
36 Chairman Maks emphasized that he had wanted to see something closer to reality,
37 rather than a tree preservation that is up to the discretion of the builder, which he
38 does not believe will be there. He stated that he wants to see something that is
39 honest and true, with some sense of building envelopes. He questioned whether it
40 is necessary, without the bulb, to have four lots to meet the required density.

41
42 Mr. Cooper advised Chairman Maks that this is correct, generally speaking.

43
44 Observing that he does want to develop the property, Chairman Maks expressed
45 his concern with reality and tree preservation. He agreed with the applicant's
46 concern with required screening in an area that is zoned for houses to be located

1 five feet apart. Noting that this is not the case at this time, he mentioned that this
2 would change, in conformance with goals of the Comprehensive Plan. He
3 commented that he does like the idea of a living hedge, which work well in his
4 own neighborhood. He stated that Lot 4 would never work without a flexible
5 setback.

6

7 On question, Mr. Cooper indicated that he had no final comments.

8

9 On question, Assistant City Attorney Naemura indicated that he had no final
10 comments.

11

12 Observing that the applicant has requested a continuance of this Public Hearing,
13 Chairman Maks questioned whether they had signed a waiver of the 120-day rule.

14

15 Mr. Cooper indicated that the applicant had not yet signed a waiver of the 120-
16 day rule.

17

18 On question, Ms. Holly advised Chairman Maks that the applicant is willing to
19 sign the waiver of the 120-day rule, and requested four weeks to prepare for the
20 continued Public Hearing.

21

22 Chairman Maks mentioned that the Public Hearing for the Comprehensive Plan
23 Land Use Element has been continued for four weeks also, and is on the Agenda
24 for November 15, 2000.

25

26 Commissioner Heckman **MOVED** and Commissioner Dunham **SECONDED** a
27 motion that SB 2000-0013 -- Shipley 4-Lot Subdivision and FS 2000-0006 --
28 Shipley Flexible Setback, was continued to a date certain of November 15, 2000,
29 in order to allow the applicant the opportunity to provide further information to
30 the Planning Commissioners.

31

32 Motion **CARRIED**, unanimously.

33

34 **MISCELLANEOUS BUSINESS:**

35

36 The meeting adjourned at 11:10 p.m.